

(F) chapter 81, relating to compensation for work injury;

(G) chapters 83–85, 87, and 89, relating to retirement, unemployment compensation, and insurance coverage; and

(H) sections 1204, 1211–1218, 1221, and 7701–7703, relating to the Merit Systems Protection Board.

(3) **APPEALS TO MERIT SYSTEMS PROTECTION BOARD.**—Under the new personnel management system developed and implemented under paragraph (1), an employee of the Administration may submit an appeal to the Merit Systems Protection Board and may seek judicial review of any resulting final orders or decisions of the Board from any action that was appealable to the Board under any law, rule, or regulation as of March 31, 1996.

(4) **EFFECTIVE DATE.**—This subsection shall take effect on April 1, 1996.

(h) **RIGHT TO CONTEST ADVERSE PERSONNEL ACTIONS.**—An employee of the Federal Aviation Administration who is the subject of a major adverse personnel action may contest the action either through any contractual grievance procedure that is applicable to the employee as a member of the collective bargaining unit or through the Administration's internal process relating to review of major adverse personnel actions of the Administration, known as Guaranteed Fair Treatment, or under section 40122(g)(3).

(i) **ELECTION OF FORUM.**—Where a major adverse personnel action may be contested through more than one of the indicated forums (such as the contractual grievance procedure, the Federal Aviation Administration's internal process, or that of the Merit Systems Protection Board), an employee must elect the forum through which the matter will be contested. Nothing in this section is intended to allow an employee to contest an action through more than one forum unless otherwise allowed by law.

(j) **DEFINITION.**—In this section, the term “major adverse personnel action” means a suspension of more than 14 days, a reduction in pay or grade, a removal for conduct or performance, a nondisciplinary removal, a furlough of 30 days or less (but not including placement in a nonpay status as the result of a lapse of appropriations or an enactment by Congress), or a reduction in force action.

(Added Pub. L. 104-264, title II, § 253, Oct. 9, 1996, 110 Stat. 3237; amended Pub. L. 106-181, title III, §§ 307(a), 308, Apr. 5, 2000, 114 Stat. 124, 126.)

#### REFERENCES IN TEXT

Executive Order No. 12674, referred to in subsec. (d), is set out as a note under section 7301 of Title 5, Government Organization and Employees.

The effective date of the Air Traffic Management System Performance Improvement Act of 1996, referred to in subsec. (f), is the date that is 30 days after Oct. 9, 1996. See section 203 of Pub. L. 104-264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

#### AMENDMENTS

2000—Subsec. (a)(2). Pub. L. 106-181, § 308(a), inserted at end “The 60-day period shall not include any period during which Congress has adjourned sine die.”

Subsec. (g). Pub. L. 106-181, § 307(a), added subsec. (g).  
Subsecs. (h) to (j). Pub. L. 106-181, § 308(b), added subsecs. (h) to (j).

#### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-181 applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as a note under section 106 of this title.

#### EFFECTIVE DATE

Section effective on date that is 30 days after Oct. 9, 1996, see section 203 of Pub. L. 104-264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

### § 40123. Protection of voluntarily submitted information

(a) **IN GENERAL.**—Notwithstanding any other provision of law, neither the Administrator of the Federal Aviation Administration, nor any agency receiving information from the Administrator, shall disclose voluntarily-provided safety or security related information if the Administrator finds that—

(1) the disclosure of the information would inhibit the voluntary provision of that type of information and that the receipt of that type of information aids in fulfilling the Administrator's safety and security responsibilities; and

(2) withholding such information from disclosure would be consistent with the Administrator's safety and security responsibilities.

(b) **REGULATIONS.**—The Administrator shall issue regulations to carry out this section.

(Added Pub. L. 104-264, title IV, § 402(a), Oct. 9, 1996, 110 Stat. 3255.)

#### EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

### § 40124. Interstate agreements for airport facilities

Congress consents to a State making an agreement, not in conflict with a law of the United States, with another State to develop or operate an airport facility.

(Added Pub. L. 104-287, § 5(69)(A), Oct. 11, 1996, 110 Stat. 3395, § 40121; renumbered § 40124, Pub. L. 105-102, § 3(d)(1)(B), Nov. 20, 1997, 111 Stat. 2215.)

#### HISTORICAL AND REVISION NOTES

This restates 49:44502(e) as 49:40121 [now 40124] to provide a more appropriate place in title 49.

#### AMENDMENTS

1997—Pub. L. 105-102 amended Pub. L. 104-287, renumbering section 40121 of this title as this section.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-102, § 3(d), Nov. 20, 1997, 111 Stat. 2215, provided that the amendment made by section 3(d)(1)(B) is effective Oct. 11, 1996.

Amendment by Pub. L. 105-102 effective as if included in the provisions of the Act to which the amendment relates, see section 3(f) of Pub. L. 105-102, set out as a note under section 106 of this title.

#### § 40125. Qualifications for public aircraft status

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMERCIAL PURPOSES.—The term “commercial purposes” means the transportation of persons or property for compensation or hire, but does not include the operation of an aircraft by the armed forces for reimbursement when that reimbursement is required by any Federal statute, regulation, or directive, in effect on November 1, 1999, or by one government on behalf of another government under a cost reimbursement agreement if the government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation is necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator is reasonably available to meet the threat.

(2) GOVERNMENTAL FUNCTION.—The term “governmental function” means an activity undertaken by a government, such as national defense, intelligence missions, firefighting, search and rescue, law enforcement (including transport of prisoners, detainees, and illegal aliens), aeronautical research, or biological or geological resource management.

(3) QUALIFIED NON-CREWMEMBER.—The term “qualified non-crewmember” means an individual, other than a member of the crew, aboard an aircraft—

(A) operated by the armed forces or an intelligence agency of the United States Government; or

(B) whose presence is required to perform, or is associated with the performance of, a governmental function.

(4) ARMED FORCES.—The term “armed forces” has the meaning given such term by section 101 of title 10.

(b) AIRCRAFT OWNED BY GOVERNMENTS.—An aircraft described in subparagraph (A), (B), (C), or (D) of section 40102(a)(41) does not qualify as a public aircraft under such section when the aircraft is used for commercial purposes or to carry an individual other than a crewmember or a qualified non-crewmember.

(c) AIRCRAFT OWNED OR OPERATED BY THE ARMED FORCES.—

(1) IN GENERAL.—Subject to paragraph (2), an aircraft described in section 40102(a)(41)(E) qualifies as a public aircraft if—

(A) the aircraft is operated in accordance with title 10;

(B) the aircraft is operated in the performance of a governmental function under title 14, 31, 32, or 50 and the aircraft is not used for commercial purposes; or

(C) the aircraft is chartered to provide transportation or other commercial air service to the armed forces and the Secretary of Defense (or the Secretary of the department in which the Coast Guard is operating) des-

ignates the operation of the aircraft as being required in the national interest.

(2) LIMITATION.—An aircraft that meets the criteria set forth in paragraph (1) and that is owned or operated by the National Guard of a State, the District of Columbia, or any territory or possession of the United States, qualifies as a public aircraft only to the extent that it is operated under the direct control of the Department of Defense.

(Added Pub. L. 106-181, title VII, §702(b)(1), Apr. 5, 2000, 114 Stat. 155; amended Pub. L. 110-181, div. A, title X, §1078(b), (c), Jan. 28, 2008, 122 Stat. 334.)

#### AMENDMENTS

2008—Subsec. (b). Pub. L. 110-181, §1078(c)(1), substituted “section 40102(a)(41)” for “section 40102(a)(37)”.

Subsec. (c)(1). Pub. L. 110-181, §1078(c)(2), substituted “section 40102(a)(41)(E)” for “section 40102(a)(37)(E)” in introductory provisions.

Subsec. (c)(1)(C). Pub. L. 110-181, §1078(b), inserted “or other commercial air service” after “transportation”.

#### EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

#### TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

#### § 40126. Severable services contracts for periods crossing fiscal years

(a) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into a contract for procurement of severable services for a period that begins in 1 fiscal year and ends in the next fiscal year if (without regard to any option to extend the period of the contract) the contract period does not exceed 1 year.

(b) OBLIGATION OF FUNDS.—Funds made available for a fiscal year may be obligated for the total amount of a contract entered into under the authority of subsection (a).

(Added Pub. L. 106-181, title VII, §705(a), Apr. 5, 2000, 114 Stat. 157.)

#### EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set out as an Effective Date of 2000 Amendments note under section 106 of this title.

#### § 40127. Prohibitions on discrimination

(a) PERSONS IN AIR TRANSPORTATION.—An air carrier or foreign air carrier may not subject a person in air transportation to discrimination on the basis of race, color, national origin, religion, sex, or ancestry.

(b) USE OF PRIVATE AIRPORTS.—Notwithstanding any other provision of law, no State or local government may prohibit the use or full enjoy-